

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

WILLIAM RYAN and JOHN J. SHAUGHNESSY, )  
as they are TRUSTEES, INTERNATIONAL UNION )  
OF OPERATING ENGINEERS LOCAL 4 HEALTH )  
AND WELFARE, PENSION, AND ANNUITY FUNDS, )  
and LOUIS G. RASETTA and CHRISTOPHER )  
BARLETTA, as they are TRUSTEES, HOISTING AND )  
PORTABLE ENGINEERS LOCAL 4 APPRENTICE )  
AND TRAINING FUNDS and INTERNATIONAL )  
UNION OF OPERATING ENGINEERS, LOCAL 4, )

Plaintiffs )

vs. )

FOSTER CONSTRUCTION, INC., )

Defendant )

C.A. No. 03-12606-GAO

**AFFIDAVIT OF RANDALL E. NASH**

I, Randall E. Nash, under oath and of my own personal knowledge, hereby depose  
and state as follows:

1. I am an attorney licensed to practice in the Commonwealth of Massachusetts and the United States District Court for the District of Massachusetts. I maintain an office at 11 Beacon Street, Suite 500, Boston, Massachusetts. I am over 18 years of age.
2. I am the duly authorized agent of the plaintiffs and their attorney of record. As such, I have full knowledge of the facts relating to this matter.
3. According to information on file with the Secretary of the Commonwealth of Massachusetts, Defendant Foster Construction, Inc. is a corporation.
4. On the basis of the facts set forth above, this affiant says that the party against whom default is sought is not an infant or incompetent person.


5. On the basis of the facts set forth above, this affiant says that the defendant is not in the military service.

6. To date, the plaintiffs have incurred attorney's fees and costs totaling \$3,475.10.

A true and correct statement of my attorney's fees and costs is attached as Exhibit

1.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS  
21<sup>st</sup> DAY OF APRIL, 2004.

  
Randall E. Nash

## STATEMENT OF PROFESSIONAL SERVICES RENDERED:

1004.1009/Foster Construction

10/3/03	Telephone conference with J. Bucci re: delinquent contributions and J. Foster's proposal to settle; voice mail to J. Foster re: same	0.20
10/7/03	Received and reviewed letter from J. Bucci re: referral for collection action and file information; received and reviewed copies of letters from J. Bucci requesting bond information	0.30
10/8/03	Telephone conference with J. Foster re: delinquency, referral for collection and possible resolution; voice mail to Attorney Dean re: same	0.30
10/21/03	Telephone conference with Attorney Crane re: referral for legal action, need for prompt resolution, and request for proposal	0.30
11/24/03	Received and reviewed letter from J. Bucci re: increase in delinquency and case status; voice mail to J. Bucci	0.10
12/4/03	Obtained corporate information from Secretary of State; work on complaint	0.70
12/11/03	Work on complaint	0.40
12/17/03	Continued work on complaint	0.50
12/20/03	Work on complaint	0.30
12/22/03	Continued work on complaint and related materials	0.80
12/23/03	Final preparation and filing of complaint	0.20
12/31/03	Received and reviewed asset search	0.20
1/2/04	Received and reviewed copy of complaint and original summons from court; attempted telephone contact with Attorney Crane re: service issues	0.20
1/14/04	Telephone conference with Sheriff's office re: service issues; letter to Sheriff's office re: service	0.20
2/9/04	Received and reviewed return of service from sheriff's office	0.10
2/19/04	Letter to court filing summons and return of service	0.10

**EXHIBIT 1**

3/3/04	Review of court docket; voice mail to J. Bucci re: employer's failure to answer and need for calculation for damages	0.10
3/10/04	Work on request for entry of default and affidavit	0.30
3/12/04	Final preparation and filing of request for default and supporting affidavit	0.10
3/22/04	Received and reviewed notice of default and standing order regarding default judgment from court	0.20
4/16/04	Review and analysis of contribution and interest information, work on J. Bucci affidavit	0.40
4/17/04	Work on motion, affidavits, and supporting memorandum	2.00
4/19/04	Work on affidavits and supporting memorandum	1.80
4/20/04	Continued work on J. Bucci affidavit; fax transmission to J. Bucci; telephone conferences with J. Bucci re: affidavit and exhibits; work on supporting memorandum	2.80
4/21/04	Meeting with J. Bucci re: review and execution of affidavit; final preparation and filing of motion and supporting materials	2.00

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Total Fees:	14.60 hrs. @ \$215.00/hr. = \$ 3,139.00
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Disbursements:

Filing Fee-	\$150.00
Asset Searches-	\$125.00
Service of Process -	\$ 61.10

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Total Disbursements:	\$ 336.10
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Total Due:	\$ 3,475.10
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Defendant )

C.A. No. 03-12606-GAO

FORM OF DEFAULT JUDGMENT

O'TOOLE, D.J.

Defendant Foster Construction, Inc. having failed to plead or otherwise defend in this action and its default having been entered,

Now, upon application of plaintiffs and affidavits demonstrating that defendant owes plaintiffs the sum of \$44,865.65 that defendant is not an infant or incompetent person or in the military service of the United States, and that plaintiff has incurred attorney's fees and costs in the sum of \$3,475.10.

It is hereby ORDERED, ADJUDGED AND DECREED that plaintiffs recover from defendant Foster Construction, Inc. the sum of \$44,865.65, with attorney's fees and costs in the amount of \$3,475.10, prejudgment interest at the rate of 1% per month from March 1, 2002 through April 30, 2004, in the amount of \$6,073.69, and additional interest in the amount of \$6,073.69 for a total judgment of \$60,488.13 with interest as provided by law.

By the Court,

\_\_\_\_\_  
Deputy Clerk

Dated: \_\_\_\_\_

NOTE: The post judgment interest rate effective this date is \_\_\_\_%.